

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

8:16-CR-331

vs.

JULIAN MIX-PEREZ,

ORDER

Defendant.

This matter is before the Court on correspondence from the defendant that the Court has filed as a motion for copies ([filing 209](#)) and a corresponding motion to proceed in forma pauperis ([filing 210](#)). The defendant's motions will be denied.

The defendant is requesting copies of the evidence in his case, and copies of every motion filed in the case, along with a copy of his plea agreement. But the defendant does not have the right to receive copies of documents without payment, even if he is indigent. *See 28 U.S.C. § 1915; Lewis v. Precision Optics, Inc., 612 F.2d 1074, 1075 (8th Cir. 1980)*. The defendant was previously informed of the procedure for paying to obtain copies of case filings. [Filing 206](#).

Furthermore, the defendant's request for copies is premature. The defendant is asking for copies, he says, in support of a motion pursuant to 28 U.S.C. § 2255. [Filing 209](#). But as of now, the defendant's case is on appeal to the U.S. Court of Appeals for the Eighth Circuit, and the defendant has counsel representing him before that court. The defendant cannot pursue postconviction relief while his direct appeal is still pending. *See United States*

v. Jagim, 978 F.2d 1032, 1042 (8th Cir. 1992); *Masters v. Eide*, 353 F.2d 517, 518 (8th Cir. 1965). The Court will deny the motion for copies.

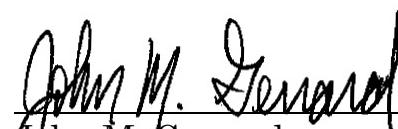
The defendant's motion for leave to proceed in forma pauperis ([filing 209](#)) is, therefore, moot, and will be denied as such. The Court does not question the defendant's indigence, and has already permitted him to proceed in forma pauperis on appeal. [Filing 151](#). But the Court sees no reason, at this point, to subsidize the defendant's litigation expenses.

IT IS ORDERED:

1. The defendant's motion for copies ([filing 209](#)) is denied.
2. The defendant's motion to proceed in forma pauperis ([filing 210](#)) is denied as moot.

Dated this 12th day of December, 2017.

BY THE COURT:



John M. Gerrard
United States District Judge